

UNITED STATES OF AMERICA,

Plaintiff,

v.

JEFF W. WALSER,

Defendant.

**Criminal Action No.
09-00149-01-CR-W-DGK**

On September 3, 2009, the Honorable Sarah Hays entered an Order, pursuant to 18 U.S.C. § 4241, for a determination of the mental competency of the defendant to stand trial and, pursuant to 18 U.S.C. § 4241(b), directing that a psychological or psychiatric examination of the defendant be conducted and that a psychological or psychiatric report be filed with the Court pursuant to 18 U.S.C. §§ 4247(b) and (c).

On October 27, 2009, the Court entered its Report and Recommendation that the District Judge find that defendant was incompetent to understand the nature and consequence of the

proceedings against him and to assist properly in his defense. It was also recommended that the District Judge enter an order committing defendant to the custody of the Attorney General for hospitalization and treatment for a reasonable time to determine whether there was a substantial probability that in the foreseeable future, the defendant would attain the capacity to permit the trial to proceed.

On November 10, 2009, the District Judge adopted the Report and Recommendation and committed the defendant for hospitalization and treatment for a reasonable time to determine whether there would be a substantial probability that in the foreseeable future, the defendant would attain the capacity to permit the trial to proceed.

The Court has now received the psychological or psychiatric report of Dr. Angela Walden Weaver and Dr. Robert G. Lucking which concluded that the defendant is competent to understand the nature and consequence of the proceedings against him and to assist properly in his defense. This report has been provided to and reviewed by counsel for the government and counsel for the defendant. On September 8, 2010, a hearing was held, pursuant to 18 U.S.C. § 4247(d), for the purpose of determining the mental competency of the defendant to stand trial. At this hearing, counsel for the government and counsel for the defendant stipulated that the Court could consider the psychological or psychiatric report of Drs. Angela Walden Weaver and Robert G. Lucking as if Drs. Weaver and Lucking had appeared in person and testified under oath. No additional evidence was offered by the government or by the defendant.

Based on the record before the Court and the findings of Drs. Angela Walden Weaver and Robert G. Lucking, it is

RECOMMENDED that the District Court, after conducting its own independent review of the record, find that defendant Walser is competent to understand the nature and consequence of the proceedings against him and to assist properly in his defense.

Counsel are reminded that each has 14 days from the date of receipt of a copy of this Report and Recommendation to file and serve specific objections to the same. A failure to file and serve timely objections shall bar attack on appeal of the factual findings in this Report which are accepted or adopted by the District Judge except upon the ground of plain error or manifest injustice.

/s/ JOHN T. MAUGHMER

JOHN T. MAUGHMER
United States Magistrate Judge

Kansas City, Missouri